Youakim v. Miller, supra, 425 U.S. at 234.

Petitioner contends that the forfeiture of almost $500,000.00 is totally disproportional to the offense, given that there was no actual loss and therefore no harm to the victim, the amount financed was completely collateralized, and the funds advanced have already been repaid to the alleged victim of the fraud who will not receive the forfeited funds from the government as there is nothing to repay. *Cf. United States v. 3814 NW Thurman Street*, 164 F.3d 1191 (9th Cir. 1999) (forfeiture of funds where no actual loss was excessive fine); *United States v. Hawkey*, 148 F.3d 920, 928 (8th Cir. 1998)(funds subject to forfeiture must reflect funds returned prior to forfeiture order). The additional punishment of almost $500,000.00 under these circumstances is unduly harsh and excessive in violation of the Eighth Amendment.

CONCLUSION

Certiorari should be granted to resolve these important questions regarding federal income tax, federalism, comity, a criminal defendant's rights to due process, a fair trial and his right to present a defense and to cross examine witnesses, under the Fifth and Sixth Amendments to the Constitution, and the prohibition against excessive fines under the Eighth Amendment to the Constitution.

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Respectfully submitted,

ROBERT J. WATERS
Counsel of Record
DENNIS E. W. O'CONNOR
Reinwald, O'Connor & Playdon, LLP
Counsel for Petitioner